

CALIFORNIA STATE BOARD OF EDUCATION

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OCTOBER 2003 INFORMATION MEMORANDUM

DATE: September 30, 2003
TO: Members, State Board of Education
FROM: Greg Geeting, Assistant Executive Director

SUBJECT: Academy of Culture and Technology (ACT) Petition to Become a State Board-Chartered School

Background

At its meeting in July 2002, the Advisory Commission on Charter Schools (ACCS) recommended that the State Board of Education approve the petition by the Academy of Culture and Technology (ACT) to become a State Board-chartered school, subject to a number of conditions. The ACCS' recommendation came on a split vote (with the State Superintendent's designee voting against the motion). The State Board then considered the ACT petition at its September 2002 meeting, encouraging the ACT petitioner to make some revisions to the petition and submit it again to the Pomona Unified School District. The State Board agreed to consider the revised petition if not approved locally.

The revised ACT petition was considered and denied by the Pomona Unified School District on January 14, 2003. The State Board then considered the revised petition at its March 2003 meeting. Only six members were present when the agenda item was presented, and President Hastings discerned from the discussion that the members present were not unanimous in their thinking. Therefore, he directed that the matter be postponed to a future meeting.

Tomas Ursua, ACT's principal petitioner, has now asked that the petition be scheduled for consideration at the State Board's November 2003 meeting. In an e-mail message on September 15, 2003, he indicated:

"...We have no new information to submit, other than a synopsis of our past meetings, where we will try to assert that every major item of concern has been met, or will be subject of contingencies required to be met, prior to our school opening. (I will send you that by Monday of next week.)

"At this stage, we are not assuming an opening date of July 2004 -- 2005 would be the more reasonable assumption, but I will confirm this with you prior to our meeting date."

Mr. Ursua had not provided further information as of the time this information memorandum was prepared.

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Attachment 1 is the CDE staff analysis of the ACT petition presented to the State Board at the March 2003 meeting, except that all dates have been advanced one year in keeping with Mr. Ursua's comment that the school's opening would likely be deferred to July 2005. In the agenda item, CDE staff said:

“We continue to have many of the same concerns that were originally described regarding this petition with regard to the educational program and governance structure of the school. These issues are discussed in detail under Findings 1 and 2...

“If the State Board approves this petition, we recommend that it do so for [an initial term of three years from the date operations commence]...”

Attachment 2 is the ACT petition as it appeared in the State Board's March 2003 agenda.

Contacts for Additional Information

If you have any questions about this memorandum or the attached documents, please contact:

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[Attachments](#)

State Board of Education Charter School Appeal Findings

School Name: Academy of Culture and Technology	
Denying District: Pomona Unified School District	Date Denied: 1/14/03
County: Los Angeles	
Date Received by SBE: 1/21/03	

SUMMARY OF FINDINGS	Concerns*
1. The Charter School presents an unsound educational program for pupils to be enrolled in the charter school.	<input checked="" type="checkbox"/>
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.	<input checked="" type="checkbox"/>
3. The petition does not contain the number of required signatures.	<input type="checkbox"/>
4. The petition does not contain an affirmation that the school shall be nonsectarian, shall not charge tuition and shall not discriminate.	<input type="checkbox"/>
5. The petition does not contain reasonably comprehensive descriptions of the required elements.	<input checked="" type="checkbox"/>
*See detail regarding concerns on findings 1, 2 and 5 on the following pages.	

GENERAL COMMENTS AND AFFIRMATIONS	Included	
	Yes	No
Evidence of local governing board denial per <i>Education Code</i> (EC) Section 47605 (j)(1) and 5 CCR 11967(a)(2)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Reason for denial included (5 CCR 1967(a)(2))	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Full charter included (EC 47605(b)(5)).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Signed certification of Compliance with applicable law (5 CCR 11967(b)(3))	<input type="checkbox"/>	<input type="checkbox"/>
Written verification of SELPA participation or district delegation to accept charter in the LEA for Special Education (EC 47641© and (d))	<input type="checkbox"/>	<input type="checkbox"/>
Serves pupils in grade levels that are served by the school district of the governing board that considered the petition (EC 47605(a)(6))	<input checked="" type="checkbox"/>	<input type="checkbox"/>

FINDING #1	Concerns
<p>The charter school presents an unsound educational program for pupils to be enrolled in the charter school.</p> <ul style="list-style-type: none">• Program presents the likelihood of physical, educational, or psychological harm;• Program is not likely to be of educational benefit to the pupils who attend.	
<p>Comments: The petition still does not present a comprehensive, coherent educational program. The additional materials submitted as part of the petition appear to be taken from a variety of sources but there is no sense of how it all fits together as a whole. For example: (1) sample curriculums are included for one class each for the 6-8th grades. It is not clear where those samples came from or how they relate to state content standards; (2) course outlines for grades 9-12 are identified as those for a school called AES which is never identified or described; (3) course outlines do not appear to match courses identified on a sample schedule; (4) a one page Emotional Intelligence Curriculum with goals, objectives and measurement criteria is included in the petition; however, it is not clear where this curriculum fits into the school day; and finally (5) a copy of the CDE Assessment of Career Education (ACE) test content summaries for various career technical areas is included. However, while the petition refers to various “Enterprise Learning” areas that will be emphasized, there is no description of a program or curriculum.</p> <p>The petition now proposes to serve grades 6-10 in the first year, but there is no indication of a recognition that middle grades students might need differentiated instructional strategies, groupings, personal contact, etc., than the high school students.</p> <p>The petition still has not adequately addressed how the school will address the needs of under achieving students. The material in the petition is essentially the same as was submitted for the Advisory Commission on Charter Schools (ACCS) and emphasizes specialized learning plans, tutorial services, and computer software for those students. The problem this doesn’t address is how a whole class of students that is not performing at grade level is going to successfully complete a UC preparatory curriculum.</p> <p>Language on the ELL program now states that the school will follow an unspecified “highly successful immersion model” and will “strive to hire BCLAD teachers in all core academic areas.”</p> <p>The petition now contains what appears to be boilerplate language from a Memorandum of Understanding (MOU) with the East San Gabriel Valley SELPA regarding the provision of special education services. However, it is unclear whether the school has submitted a request to become an LEA in the SELPA or whether any further discussions have taken place since the last time this charter petition was before the SBE. The petition still contains a sample contract with a private service provider (Advanced Education Services/Solon Schools Group), which is skeletal and lacking in any detail. Further, the petitioners may be relying on a service provider that may not be qualified to provide all the services it advertises.</p> <p>In conclusion, we cannot state that the petitioners present a sound program that is likely to be of educational benefit to students who may attend the school.</p>	

FINDING #2	Concerns
<p>The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.</p> <ul style="list-style-type: none">• Petitioners have a past history of involvement with charter schools or other education agencies that are regarded as unsuccessful;• Petitioners are unfamiliar with the contents of petition or requirements of law;• Petitioners have presented an unrealistic financial and operational plan for the charter school;• Petitioners lack the necessary background in curriculum, instruction and assessment, and finance and business management, and have no plan for securing individuals with the necessary background.	
<p>Comments: The governance structure proposed by ACT is the same as originally proposed and therefore we have the same concerns as described in our first analysis of this petition. The concerns are that the Pomona Valley Center for Community Development (PVCCD) is a 501(c)(3) nonprofit organization with a seven-member board of directors. The ACT is a “project” of the PVCCD and will be governed by essentially the same governing board, with the addition of up to three parent representatives from the School Site Council. We believe this governance structure may result in potential conflicts of interest between the school and the PVCCD to the extent that the interests of the two entities diverge.</p> <p>Informal conversations with the Executive Director of the PVCCD have indicated that the PVCCD is willing to establish the ACT to be a nonprofit 501(c)(3) and allow it to be granted the charter rather than the PVCCD. If this were to occur and the ACT had its own board of directors, that would help alleviate our concerns on the governance issue.</p> <p>We continue to have the same concerns with the school business plan which continues to lead us to question the viability of the charter. The revised petition does not clearly indicate how duties and responsibilities will be divided between the Financial/Administrative Officer, the bookkeeper, and the accountant. Further, it is not clear that staff responsible for business administration will have the necessary expertise in public school business practices.</p> <p>The PVCCD has reduced its indirect cost/administrative charge from 10% to 3%. This is largely a shift of 7% going to support the after school program which the PVCCD will operate.</p>	

In addition, we continue to note the following concerns with the budget projections:

- The cash flow document was prepared on a quarterly rather than monthly basis, making it difficult to determine if the petitioners understand the timing of the receipt of various revenues and their relationship to the timing of expenditures.
- The budget contains the 1% fee for oversight by the charter-granting agency; however, the amounts budgeted for oversight do not equal 1% of revenues in any of the three years for which projections are provided.
- The budget indicates that the school will be funded for special education students at \$510 per ADA. Since ACT is not in a SELPA at this time, it is difficult to determine if \$510 per ADA is a realistic figure.

Finally, if the State Board approves this charter, we recommend, in addition to the standard conditions, that the Board require the additional conditions recommended by the ACCS at the time this petition was originally heard. Those conditions are: (1) as part of the presentation of the final charter, the PVCCD include a description of the services to be rendered by the PVCCD in exchange for a share of the school's revenues and (2) that the ACT present a line of credit in the amount of no less than \$500,000 and present evidence that a grant in the amount of no less than \$150,000 has been awarded by the National Council of La Raza or another source.

FINDING #3	
The petition does not contain the number of signatures required by law.	
Comments: No concerns	

FINDING #4	
The petition does not contain an affirmation of each of the following: <ul style="list-style-type: none"> • Shall be nonsectarian • Shall not charge tuition • Shall not discriminate 	
Comments: No concerns	

FINDING #5	Reasonably Comprehensive	Not Reasonably Comprehensive
The petition contains reasonably comprehensive descriptions of the following:		
(A) A description of the educational program, including how information will be provided to parents on transferability of courses and eligibility of courses to meet college entrance requirements.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: We have concerns with the educational program as described in Finding 1 on page 2.		
(B) The measurable pupil outcomes	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Measurable pupil outcomes for the school are a mix of very general outcomes (students “will attain competency in core knowledge subject matter”) and specific outcomes (35% of its graduating classes will meet the minimum CSU/UC standards), but the petition does not provide detail about the desired level of performance for the general outcomes or a means to determine whether students are making satisfactory progress.		
(C) The method by which pupil progress is to be measured (compliance with statewide assessments and standards)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<p>Comments: Student progress will be measured by a variety of assessments including results from the STAR program, regular subject exams, portfolios and a personal evaluation process. The petition states that the ACT governing board will conduct an annual review of student progress toward meeting achievement goals, the results of which will be included in an annual performance report. There does not seem to be a plan for collecting, analyzing, and using the data to monitor and improve the school's instructional program for individual students or groups of students.</p>		
(D) Governance structure, including the process to ensure parental involvement	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: Concerns are discussed under Finding 2 on page 4. They center on the potential conflict of interest created by the governing board of the PVCCD being essentially the same board that governs ACT.</p>		
(E) Qualifications to be met by those employed	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comment: Job descriptions for an elementary teacher, school director, and janitor were included in the charter that were taken from another organization (AES). However, it is not clear whether these are the positions the school regards as key positions, nor is language included that states all requirements for employment set forth in applicable provisions of law will be met, as required by the regulations.</p>		
(F) Procedures to ensure health and safety of pupils and staff, including criminal records summary (per EC Section 44237)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>		
(G) The means by which the school will achieve racial and ethnic balance reflective of the district population	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>		
(H) Admission requirements, if applicable (District priority or lottery per EC 47605 (d)(2))	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>		
(I) The manner in which an independent annual financial audit is to be conducted	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>		
(J) The procedures by which pupils can be suspended or expelled	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<p>Comments: The petition states that ACT will develop a comprehensive set of student discipline policies which will be distributed as part of the school's student handbook. A general process is outlined for those students found "breaking school behavior procedures." However, there is no information on how detailed policies and procedures will be developed and periodically reviewed and modified.</p>		
(K) The manner by which staff will be covered by STRS, PERS, or Social Security	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>		
(L) The public school attendance alternatives for pupils residing in the school district who choose not to attend charter schools (No governing board of a school district shall require any pupil enrolled in the school district to attend a charter school)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>		
(M) A description of the rights of any employee of the district, upon leaving the employment of the district to work in the charter, and of any rights of return to the school district after employment at the charter school (No governing board of a school district shall require any employee of the school district to be employed in a charter school (EC 47605(e))	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>		
(N) Process for resolution of disputes with chartering entity	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: The charter contains language that limits the intervention by the SBE in disputes without first referring a complaint to the school's Director for resolution. This provision is contrary to the oversight agreement under which the school will operate which allows the SBE to intervene at its discretion if it believes its fundamental interests are at stake. We recommend that language which limits the SBE intervention be eliminated. Further, this section needs to be amended to incorporate language that describes how costs of the dispute resolution process, if any, would be funded; and acknowledges that because the SBE is not a local education agency, it may choose to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter.</p>		
(O) Declaration whether or not the charter school shall be deemed the exclusive public employer for the purposes of EERA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>		

(P) A description of the procedures to be used if the charter school closes	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Although not required by law for petitions submitted before January 1, 2003, it is reasonable for the State Board to require such procedures if it approves this charter.		

Recommended Conditions of Operation for State Board Charter Appeals

Condition	Recommended	Not Recommended	Alternative Date
1. Insurance Coverage -not later than June 1 , (or such earlier time as school may employ individuals or acquire or lease property or facilities for which insurance would be customary), submit documentation of adequate insurance coverage, including liability insurance, which shall be based on the type and amount of insurance coverage maintained in similar settings.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	June 1, 2004 <u>2005</u>
2. Oversight Agreement -not later than January 1 , either (a) accept an agreement with the State Board of Education (administered through the California Department of Education) to be the direct oversight entity for the school, specifying the scope of oversight and reporting activities, including, but not limited to, adequacy and safety of facilities; or (b) enter into an appropriate agreement between the charter school, the State Board of Education (as represented by the Executive Director of the State Board), and an oversight entity (pursuant to EC Section 47605(k)(1)) regarding the scope of oversight and reporting activities, including, but not limited, adequacy and safety of facilities.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	June 2, 2003 <u>2004</u>

Condition	Recommended	Not Recommended	Alternative Date
<p>3. SELPA Membership-no later than February 1, submit written verification of having applied to a special education local plan area (SELPA) for membership as a local education agency and, not later than June 1, submit either written verification that the school is (or will be at the time students are being served) participating in the SELPA, or an agreement between a SELPA, a school district that is a member of the SELPA, and the school that describes the roles and responsibilities of each party and that explicitly states that the SELPA and the district consider the school's students to be students of the school district in which the school is physically located for purposes of special education programs and services (which is the equivalent of participation in the SELPA). Satisfaction of this condition should be determined by the Executive director of the State Board of Education based primarily on the advice of the State Director of Special Education based on a review of either the school's written plan for membership in the SELPA, including any proposed contracts with service providers or the agreement between a SELPA, a school district and the school, including any proposed contracts with service providers.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>February 2, 2004 <u>2005</u> for application and June 1, 2004 <u>2005</u> for membership</p>

Condition	Recommended	Not Recommended	Alternative Date
<p>4. Educational Program-not later than January 1, submit a description of the curriculum development process the school will use and the scope and sequence for the grades envisioned by the school; and, not later than June 1, submit the complete educational program for students to be served in the first year including, but not limited to, a description of the curriculum and identification of the basic instructional materials to be used, plans for professional development of instructional personnel to deliver the curriculum and use the instructional materials, identification of specific assessments that will be used in addition to the results of the Standardized Testing and Reporting (STAR) program in evaluating student progress, and a budget which clearly identifies the core program from enrichment activities and reflects only those loans, grants, and lines of credit (if any) that have been secured by the Executive Director of the State Board of Education based primarily on the advice of the Deputy Superintendent for Curriculum and Instructional Leadership.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>September 1, 2003 <u>2004</u> for scope and sequence and March 1, 2004 <u>2005</u> for complete education program</p>
<p>5. Student Attendance Accounting-not later than May 1, submit for approval the specific means to be used for student attendance accounting and reporting that will be satisfactory to support state average daily attendance claims and satisfy any audits related to attendance that may be conducted. Satisfaction of this condition should be determined by the Executive Director of the State Board of Education based primarily on the advice of the Director of the School Fiscal Services Division.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>May 3, 2004 <u>2005</u></p>

Condition	Recommended	Not Recommended	Alternative Date
<p>6. Facilities Agreement-not later than January 1, present a written agreement (a lease or similar document) indicating the school's right to use the principal school site identified by the petitioners for at least the first year of the school's operation and evidence that the facility will be adequate for the school's needs. Not later than June 1, present a written agreement (or agreements) indicating the school's right to use any ancillary facilities planned for use in the first year of operation. Satisfaction of these conditions should be determined by the Executive Director of the State Board of Education based primarily on the advice of the Director of the School Facilities Planning Division.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>June 2, 2003 <u>2004</u> for principal site and June 1, 2004 <u>2005</u> for ancillary sites</p>
<p>7. Zoning and Occupancy-not less than 30 days prior to the school's opening, present evidence that the facility is located in an area properly zoned for operation of a school and has been cleared for student occupancy by all appropriate local authorities. For good cause, the Executive Director of the State Board of Education may reduce this requirement to fewer than 30 days, but may not reduce the requirement to fewer than 10 days. Satisfaction of this condition should be determined by the Executive Director of the State Board of Education based primarily on the advice of the Director of the School Facilities Planning Division.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Condition	Recommended	Not Recommended	Alternative Date
<p>8. Final Charter-not later than January 1, present a final charter that includes all provisions and/or modifications of provisions that reflect appropriately the State Board of Education as the chartering authority and otherwise address all concerns identified by California Department of Education staff, and that includes a specification that the school will not operate satellite schools, campuses, sites, resource centers or meeting spaces not identified in the charter without the prior written approval of the Executive Director of the State Board of Education based primarily on the advice of appropriate CDE staff.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>June 2, 2003 <u>2004</u></p>
<p>9. Legal Issues-in the final charter presented pursuant to condition (8), resolve any provisions related to legal issues that may be identified by the State Board's Chief Counsel.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<p>10. Processing of Employment Contributions-prior to the employment of any individuals by the school, present evidence that the school has made appropriate arrangements for the processing of the employees' retirement contributions to the Public Employees' Retirement System (PERS) and the State Teachers' Retirement System (STRS).</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<p>11. Operational Date-if any deadline specified in these conditions is not met, approval of the charter is terminated, unless the State Board of Education deletes or extends the deadline not met. If the school is not in operation by September 30, approval of the charter is terminated.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>September 30, 2005 <u>2006</u></p>